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*Local Counsel to Defendant Festo Didactic, Inc.*

Gregory F. Hauser, Esquire  
WUERSCH & GERING LLP  
100 Wall Street, 10th Floor  
New York, NY 10005  
Phone (212) 509-5050  
Fax (212) 509-9559  
gregory.hauser@wg-law.com

*Counsel to Defendant Festo Didactic Inc.*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
TRENTON VICINAGE**

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USI INTERNATIONAL INC.

Plaintiff,

vs.

FESTO DIDACTIC INC.,

Defendant.

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CIVIL ACTION NO.: 3:15-CV-08451-MAS-TJB

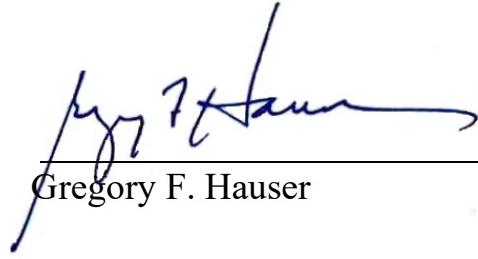
**DECLARATION OF GREGORY F. HAUSER**

GREGORY F. HAUSER declares as follows:

1. I am an attorney admitted to practice before the Courts of the State of New York and *pro hac vice* before this Court and a partner in the law firm of Wuersch & Gering, LLP.
2. I am lead counsel for Defendant Festo Didactic, Inc.
3. I make this declaration based on personal knowledge and the record in this action in opposition to Plaintiff's motion for leave to file a Second Amended Complaint.
4. Accompanying my declaration as Exhibit A is a true copy of excerpts of the deposition transcript of Jonathan Abbott, taken in this action on November 6, 2019.
5. Accompanying my declaration as Exhibit B is a true copy of excerpts of the deposition transcript of Dr. Nader-Iman Imani, taken in this action on November 15, 2019.
6. Accompanying my declaration as Exhibit C is a true copy of an email I sent counsel for Plaintiff on November 13, 2019.
7. Defendant has received from Plaintiff no information in discovery, whether in the form of an amended damages disclosure or of documents, supporting or otherwise relating to Plaintiff's new claim concerning the amount of the underlying contract and Plaintiff's damages.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 5, 2019

  
\_\_\_\_\_  
Gregory F. Hauser

# EXHIBIT A

Page 1

1

2 \*CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER\*

3 UNITED STATES DISTRICT COURT

4 FOR THE DISTRICT OF NEW JERSEY

5 -----x

6 USI INTERNATIONAL, INC.,

7 Plaintiff,

8 vs.

Civil Action No.

3:15-cv-08451 (MAS) (TJB)

9 FESTO DIDACTIC, INC.,

10 Defendant.

11 -----x

12

13 DEPOSITION OF JONATHAN ABBOTT

14 Orlando, Florida

15 Wednesday, November 6, 2019

16

17

18

19

20

21

22 Reported by:

23 DONALD R. DePEW, RPR, CRR, FPR

24 JOB NO. 171159

25

1

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3

4 November 6, 2019

5 10:02 a.m.

6

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8

9

Deposition of JONATHAN ABBOTT,

10 held at Air Force Agency for Modeling and

11      Simulation, 3051 Technology Parkway, Orlando,

12 Florida, before Donald R. DePew, a Registered

13 Professional Reporter, Certified Realtime

14 Reporter, Florida Professional Reporter, and

15 Notary Public of the State of Florida at Large.

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Page 3

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2 A P P E A R A N C E S:

3

LEWIS BAACH KAUFMANN MIDDLEMISS

4 Attorneys for Plaintiff

The Chrysler Building

5 405 Lexington Avenue

New York, New York 10174

6 BY: ERIKA LEVIN, ESQ.

DIANE CAMACHO, ESQ.

7

8

9

WUERSCH & GERING

10 Attorneys for Defendant

100 Wall Street

11 New York, New York 10005

12 BY: GREGORY HAUSER, ESQ.

13

14 THOMAS WILSON, Associate Counsel

15 Attorney for Witness

16 Naval Air Warfare Center

17 Training Systems Division

18 12211 Science Drive

19 Orlando, Florida 32826

20

21 ALSO PRESENT:

22

23 BURAK YAHSI, President, USI International

24

25

1                   Confidential - Jonathan Abbott  
2   J O N A T H A N   A B B O T T ,    called as a  
3                   witness, having been duly sworn by the Notary  
4                   Public, was examined and testified as follows:

5                   MS . LEVIN: Erika Levin, LBKM, on  
6                   behalf of USI International, the plaintiff.

7                   MS . CAMACHO: Diane Camacho, also with  
8                   LBKM and also on behalf of USI  
9                   International.

10                  MR . YAHSI: Burak Yahsi, USI  
11                  International.

12                  MR . HAUSER: Gregory Hauser, Wuersch &  
13                  Gering, for the defendant.

14                  MR . WILSON: Thomas Wilson from the  
15                  Department of the Navy, Office of General  
16                  Counsel, here on behalf of the United States  
17                  Navy.

18                  THE WITNESS: Jonathan Abbott,  
19                  contracts department, Naval air warfare  
20                  center, training systems division,  
21                  United States Navy.

22                  MS . LEVIN: Thank you.

23                  EXAMINATION BY

24                  MS . LEVIN:

25                  Q.       So once again my name is Erika Levin.

1                   Confidential - Jonathan Abbott

2                   When did you move to Florida?

3                   A.       1989.

4                   Q.       Oh, okay.

5                   And Orlando area or --

6                   A.       Orlando, yes.

7                   Q.       And please describe your education  
8 post high school.

9                   A.       I attended the University of Florida,  
10 Gainesville, Florida, and got a bachelors in  
11 finance.

12                  Q.       Okay. And please state your current  
13 title.

14                  A.       Currently I am a contracting officer.

15                  Q.       With whom?

16                  A.       The United States Navy.

17                  Q.       Okay. And how long have you been in  
18 that position?

19                  A.       It's three and a half years.

20                  Q.       Okay. And do you understand the  
21 purpose of our deposition today?

22                  A.       Yes.

23                  Q.       Do you recall being involved with  
24 respect to the sale of training equipment for  
25 the Oman Military Technical College?

1                   Confidential - Jonathan Abbott

2                 A.     They are the customer.

3                 Q.     So with respect to the Military  
4                 Technical College in Oman what is your  
5                 familiarity with the entity?

6                 A.     That it is a training college, you  
7                 know, for the Oman defense department where  
8                 various training activities occur.

9                 Q.     And when were you first I guess made  
10                aware of the transaction, FMS transaction,  
11                relating to the Military Technical College?

12               A.     When I came on board I believe in the  
13                summer of 2014.

14               Q.     Okay. And what were your  
15                responsibilities with respect to the  
16                transaction?

17               A.     I was responsible for negotiating the  
18                contract, the price of the contract, and setting  
19                up the award document, and subsequent to  
20                execution of the award document administration  
21                post award.

22               Q.     Do you recall when the U.S. Embassy  
23                first contacted Lab-Volt in relation to the Oman  
24                Military Technical College?

25               A.     I do not know that.

1                   Confidential - Jonathan Abbott

2                   the program at that time.

3                   Q.        Oh, he passed away -- hold on.

4                   You became involved in mid-2014,  
5                   correct?

6                   A.        Correct.

7                   Q.        When did Mr. Morgan pass away?

8                   A.        I believe in 2017, late 2016, 2017.

9                   Q.        And I thought you testified at the  
10                  very beginning that you'd been involved with  
11                  this contract post award administration?

12                  A.        I did post award administration. I  
13                  did not -- I am not currently doing post award  
14                  administration.

15                  Q.        Ah-ha. Until when were you involved  
16                  with post award administration?

17                  A.        I believe early 2016, if I can recall  
18                  correctly.

19                  Q.        So about a year and a half or so?

20                  A.        It sounds about right.

21                  Q.        Okay. In that time were there any  
22                  amendments to this contract adding additional  
23                  equipment?

24                  A.        Not adding additional equipment, no.

25                  Q.        Okay. To your knowledge after you

1                   Confidential - Jonathan Abbott  
2       left were there any adding additional training  
3       equipment?

4                   A.     To my knowledge, no.

5                   Q.     If we look at Exhibit 39.

6                   Do you have that?

7                   A.     Okay.

8                   Q.     Now do you see where it's talking  
9       about Oman -- 2 percent of the service being  
10      provided in Oman?

11                  A.     Okay.

12                  Q.     All right. But in fact service in  
13      Oman wasn't the only component of the warranty  
14      and after delivery service, was it?

15                  A.     Correct.

16                  Q.     And in fact there was anticipated that  
17      part of the warranty costs would involve  
18      equipment that had to be shipped back to Canada  
19      to be repaired and then shipped back to Oman,  
20      correct?

21                  A.     Correct.

22                  Q.     So some of the warranty was in fact  
23      included in the 90 -- in this e-mail, the  
24      95 percent Canadian effort, correct?

25                  A.     That's my understanding.

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2 C E R T I F I C A T E

3 STATE OF FLORIDA )

4 : ss.

5 COUNTY OF ORANGE )

6

7 I, DONALD R. DePEW, a Registered  
8 Professional Reporter, Certified Realtime  
9 Reporter, Florida Professional Reporter, and  
10 Notary Public within and for the State of  
11 Florida at Large, do hereby certify:

12 That JONATHAN ABBOTT, the witness whose  
13 deposition is hereinbefore set forth, was duly  
14 sworn by me and that such deposition is a true  
15 record of the testimony given by the witness.

16 I further certify that I am not related  
17 to any of the parties to this action by blood or  
18 marriage, and that I am in no way interested in  
19 the outcome of this matter.

20 IN WITNESS WHEREOF, I have hereunto set  
21 my hand this 18th day of November, 2019.

22



23

DONALD R. DePEW, RPR, CRR, FPR

24

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# EXHIBIT B

Page 1

1  
2       UNITED STATES DISTRICT COURT  
3       FOR THE DISTRICT OF NEW JERSEY  
4       -----x  
5       USI INTERNATIONAL, INC.,  
6                                  Plaintiff,

7                                  v.

Civil Action No.

8                                  FESTO DIDACTIC INC.,

3:15-cv-08451

(MAS) (TJB)

9  
10                              Defendant.  
11        -----x  
12        DEPOSITION OF NADER-IMAN IMANI  
13        New York, New York  
14        Friday, November 15, 2019  
15        10:13 a.m.  
16  
17  
18  
19  
20

Reported by:

21       LYNN VAN DEN HENDE  
22       CRR, RMR, RPR, CSR-NY, CSR-CA, CSR-IL  
23       JOB NO: 171890  
24  
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4 November 15, 2019

5 10:13 a.m.

6

7 Deposition of NADER-IMAN IMANI, held  
8 at the offices of Wuersch & Gering, 100 Wall  
9 Street, New York, New York, pursuant to  
0 Notice, before Lynn Van Den Hende, Certified  
1 Realtime Reporter, Registered Merit  
2 Reporter, State of New York Certified  
3 Shorthand Reporter, State of California  
4 Certified Shorthand Reporter, State of  
5 Illinois Certified Shorthand Reporter,  
6 Registered Professional Reporter, and Notary  
7 Public within and for the State of New York.

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Page 3

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2 APP E A R A N C E S:

3 FOR THE PLAINTIFF:

4 LEWIS BAACH KAUFMANN MIDDLEMISS

5 405 Lexington Avenue

6 New York, NY 10174

7 BY: ERIKA LEVIN, ESQ.

8 BY: DIANE CAMACHO, ESQ.

9 BY: ADAM KAUFMANN, ESQ.

10

11

12

13

14

15 FOR THE DEFENDANT:

16 WUERSCH & GERING

17 100 Wall Street

18 New York, NY 10005

19 BY: GREGORY HAUSER, ESQ.

20

21

22

23 ALSO PRESENT:

24 BURAK YAHSI

25

1 N A D E R - I M A N I M A N I,

2 called as a witness, having been duly  
3 sworn by a Notary Public, was examined  
4 and testified as follows:

5 MS. LEVIN: Erika Levin, LBKM,  
6 on behalf of USI International.

7 MS. CAMACHO: Diane Camacho,  
8 also LBKM, on behalf of USI  
9 International.

10 MR. KAUFMANN: Adam Kaufmann,  
11 also with LBKM, on behalf of USI.

12 MR. YAHSI: Burak Yahsi, USI  
13 International. Thank you.

14 MR. HAUSER: And I'm Gregory  
15 Hauser of Wuersch & Gering for the  
16 defendant.

17 THE WITNESS: I'm Nader Imani,  
18 Festo Didactic.

19 EXAMINATION

20 BY MS. LEVIN:

21 Q. So thank you, Mr. Imani or  
22 Dr. Imani for being here today.

23 My name is Erika Levin. I'm an  
24 attorney for USI, the plaintiff in this

1 N. Imani

2 EXAMINATION

3 BY MR. HAUSER:

4 Q. Dr. Imani, just to clear up a  
5 few things, your current employer is Festo  
6 Didactic S.E., correct?

7 A. Yes.

8 Q. Okay. Since the contract  
9 between Festo Didactic, Inc. and the U.S.  
10 Government was signed in October of 2014,  
11 was all that equipment that was listed  
12 delivered by Festo Didactic, Inc. to Oman?

13 A. Yes, the contract we signed in  
14 2014 was delivered completely.

15 Q. And did the U.S. Government pay  
16 for it?

17 A. Yes.

18 Q. Okay. And was there ever any  
19 additional equipment added to that  
20 contract?

21 A. No.

22 Q. So there was the roughly \$11  
23 million and nothing -- for goods and  
24 services and nothing more than that,  
25 correct?

1 N. Imani

2 A. And that's it.

3 Q. Let's go back to Exhibit 4.

4 And looking at the page that's  
5 labeled defendant 401, do you remember  
6 that letter?

7 A. Yes.

8 Q. Do you see in the second line  
9 there's a reference to offset funding for  
10 the project?

11 A. Yes.

12 Q. Did this project end up having  
13 offset funding?

14 A. No.

15 Q. Offset funding is distinct and  
16 different from FMS funding, correct?

17 A. Completely.

18 Q. Okay. Let's take a look at  
19 Exhibit 10.

20 Do you remember you were asked  
21 before what LOA meant?

22 A. Yes.

23 Q. And you testified it meant  
24 letter of acceptance?

25 A. Yes.

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2 C E R T I F I C A T E

3 STATE OF NEW YORK )

4 ) :ss

5 COUNTY OF NEW YORK )

6

7 I, LYNN VAN DEN HENDE, a Certified  
8 Shorthand Reporter and Notary Public, within and  
9 for the State of New York, do hereby certify:

10 That NADER-IMAN IMANI, the witness  
11 whose deposition is hereinbefore set forth, was  
12 duly sworn by me and that such deposition is a  
13 true record of the testimony given by such  
14 witness.

15 I further certify that I am not  
16 related to any of the parties to this action by  
17 blood or marriage and that I am in no way  
18 interested in the outcome of this matter.

19 In witness, whereof, I have hereunto  
20 set my hand this 22nd day of November, 2019.

21

22

23



24

LYNN VAN DEN HENDE

25

# EXHIBIT C

**Gregory F. Hauser**

---

**From:** Gregory F. Hauser  
**Sent:** Wednesday, November 13, 2019 12:36 PM  
**To:** 'Erika Levin'  
**Cc:** Lauren Skala; Mackenna White; Diane Camacho  
**Subject:** RE: Navy Depositions

**Importance:** High

Two matters left over from last week:

1. At one of the depositions, you marked a document labeled Duggan #####. Was there a Duggan production? If so, I don't have it. Please clarify this.
2. You have repeatedly mentioned evidence of another transaction. None has ever been produced. It would clearly be within your continuing duty to produce and should have been produced when obtained.

**WUERSCH & GERING**

---

Gregory F. Hauser | Partner  
Wuersch & Gering LLP | 100 Wall Street, 10th Fl. | New York, NY 10005  
212-509-4717 (direct) | 212-509-5050 (firm)  
[gregory.hauser@wg-law.com](mailto:gregory.hauser@wg-law.com) | [www.wg-law.com](http://www.wg-law.com)

**From:** Erika Levin [mailto:[Erika.Levin@LBKMLAW.com](mailto:Erika.Levin@LBKMLAW.com)]  
**Sent:** Wednesday, November 13, 2019 11:07 AM  
**To:** Gregory F. Hauser <[gregory.hauser@wg-law.com](mailto:gregory.hauser@wg-law.com)>  
**Cc:** Lauren Skala <[Lauren.Skala@LBKMLAW.com](mailto:Lauren.Skala@LBKMLAW.com)>; Mackenna White <[Mackenna.White@LBKMLAW.com](mailto:Mackenna.White@LBKMLAW.com)>; Diane Camacho <[Diane.Camacho@LBKMLAW.com](mailto:Diane.Camacho@LBKMLAW.com)>  
**Subject:** RE: Navy Depositions

Here are the attendees from our side: Erika Levin, Adam Kaufmann, Diane Camacho, and Burak Yahsi. Lauren will provide the name of the court reporter.

Please confirm your availability for depos on November 21, 22 and/or December 4, 5, 6 so that we can finalize the schedule with the deponents.

Let's plan on starting at 10am on Friday.

Thank you,

Erika

---

Erika Levin

**Lewis Baach Kaufmann Middlemiss PLLC**